REMARKS/ARGUMENTS

Reexamination and reconsideration of this application as amended is requested. By this amendment, Claims 1, 2, 15 and 23-24 are canceled without prejudice. By this amendment, Claims 3-4, 6-8, 10-11, 16-19, 21, 25-26, 30 and 32 are amended. New claims 38-39 have been added. After this amendment, Claims 3-14, 16-22, 25-37 and 38-39 remain pending in the application.

Claim Objection

(1)   The Examiner objected to Claim 16 because of an informality. The Examiner stated that the word "substantially" renders the claim indefinite because it is unclear whether the limitations following the word are part of the claimed invention. Claim 16 has been amended. By the amendment to Claim 16, the word "substantially" has been deleted. Applicants kindly request that the Examiner withdraw the objection.

Claims Rejection under 35 U.S.C. §102

(2-4)   The Examiner rejected Claims 1-37 under 35 U.S.C. §102(e), as being anticipated by Eyal (U.S. Patent 6,389,467). Claims 1, 2, 15 and 23-24 have been canceled without prejudice.

Claim 3 has been amended to be independent and to more clearly recite the invention. The changes made to Amended Claim 3 find support in the specification at page 2, lines 3-5, and in canceled Claims 1 and 2. No new matter was added. Eyal fails to disclose all the elements of Amended Claim 3, including in particular, "*providing audio to the group of persons in a shared acoustical environment, the audio corresponding to the at least one audio file being rendered*", as recited in the last step of Amended Claim 3. Eyal discloses a method of searching for streaming media and a

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method of facilitating the playing back of such streaming media <u>individually</u> to individual users on the terminal of each user. For example, Eyal states:

> "In step 1610, a user chooses to add a URL of a selected media clip to a personal favorite play-list. In step 1620, the flow process adds the URL (and metadata) of the selected media clip to a user terminal store for user persistent information, such as an Internet cookie. The persistent data store is then accessible for the web-based play back application *on the user terminal*." (Emphasis added) (See col. 31, line 65 to col. 32, line 4 of Eyal.)

Nowhere in Eyal is there taught the concept of playing audio files to a group of persons in a shared acoustical environment. Therefore, in view of the amendment to Claim 3 and the remarks above, Applicants believe that the rejection of Amended Claim 3 under 35 U.S.C. 102(e) has been overcome.

Claims 4, 6-8 and 10-11 have been amended; however, only the dependencies of these claims have been changed, so that they now depend upon Amended Claim 3. Because Claims 4-11 depend from Amended Claim 3, and because dependent claims recite all of the limitations of the independent claim, it is believed that Claims 4-11 recite in allowable form. Therefore, Applicants also believe that the rejection of Claims 4-11 has been overcome.

Applicants respectfully disagree with the Examiner's rejection of independent Claim 12. Eyal fails to disclose the *"stopping of the rendering of the audio file if the vote indication does not exceed the voting threshold"*, as recited in the last step of Claim 12. Eyal teaches that each individual user could merely use the results of voting as a criterion for individually deciding which audio files each user selects for play back on the terminal of each user. Nowhere in Eyal is there taught the stopping of the playing of an audio file based upon votes.

Therefore, in view of the remarks above, Applicants believe that the rejection of Claim 12 under 35 U.S.C. 102(e) has been overcome. Claims 13-14 depend from Claim 12, and because dependent claims recite all of the limitations of the independent claim, it is believed that Claims 13-14 recite in allowable form. Therefore, Applicants also believe

that the rejection of Claims 13-14 has been overcome.

Claim 16 has been amended to be independent and to more clearly recite the invention. The changes made to Amended Claim 16 find support in the specification, and specifically in canceled Claim 15. No new matter was added. Eyal fails to disclose all the elements of Amended Claim 16, including in particular, *"providing audio in a shared acoustical environment, the audio corresponding to the at least one audio file being rendered"*, as recited in the last step of Amended Claim 16. Eyal discloses a method of searching for streaming media and a method of facilitating the playing back of such streaming media individually to individual users on the terminal of each user. For example, Eyal states:

> "In step 1610, a user chooses to add a URL of a selected media clip to a personal favorite play-list. In step 1620, the flow process adds the URL (and metadata) of the selected media clip to a user terminal store for user persistent information, such as an Internet cookie. The persistent data store is then accessible for the web-based play back application *on the user terminal.*" (Emphasis added) (See col. 31, line 65 to col. 32, line 4 of Eyal.)

Nowhere in Eyal is there taught the concept of playing audio files to a group of persons in a shared acoustical environment. Therefore, in view of the amendment to Claim 16 and the remarks above, Applicants believe that the rejection of Amended Claim 16 under 35 U.S.C. 102(e) has been overcome.

Claims 17-19 have been amended; however, only the dependencies of these claims have been changed, so that they now depend upon Amended Claim 16. Because Claims 17-19 depend from Amended Claim 16, and because dependent claims recite all of the limitations of the independent claim, it is believed that Claims 17-19 recite in allowable form. Therefore, Applicants also believe that the rejection of Claims 17-19 has been overcome.

Applicants respectfully disagree with the Examiner's rejection of independent

Claim 20. Eyal fails to disclose the "*stopping of the rendering of the audio file if the vote indication does not exceed the voting threshold*", as recited in the last step of Claim 20. Eyal teaches that the voting results could be used by each user merely as a criterion for individually deciding which audio files each user selects for play back on the terminal of each user. Nowhere in Eyal is there taught the stopping of the playing of an audio file based upon votes. Therefore, in view of the remarks above, Applicants believe that the rejection of Claim 20 under 35 U.S.C. 102(e) has been overcome.

Claim 21 has been amended to remove the word "substantially" from line 3. Because Amended Claim 21 and Claim 22 depend from Claim 20, and because dependent claims recite all of the limitations of the independent claim, it is believed that Amended Claim 21 and Claim 22 recite in allowable form. Therefore, Applicants also believe that the rejection of Amended Claim 21 and Claim 22 has been overcome.

Claim 25 has been amended to be independent and to more clearly recite the invention. The changes made to Amended Claim 25 find support in the specification at page 2, lines 3-5, and page 11, lines 4-6. No new matter was added. Eyal fails to disclose all the elements of Amended Claim 25, including in particular, "*providing audio in a shared acoustical environment, the audio corresponding to the at least one audio file being rendered*", as recited in the last step of Amended Claim 25. Eyal discloses a method of searching for streaming media and a method of facilitating the playing back of such streaming media <u>individually</u> to individual users on the terminal of each user. For example, Eyal states:

> "In step 1610, a user chooses to add a URL of a selected media clip to a personal favorite play-list. In step 1620, the flow process adds the URL (and metadata) of the selected media clip to a user terminal store for user persistent information, such as an Internet cookie. The persistent data store is then accessible for the web-based play back application *on the user terminal.*" (Emphasis added) (See col. 31, line 65 to col. 32, line 4 of Eyal.)

Nowhere in Eyal is there taught the concept of playing audio files to a group of persons in a shared acoustical environment. Therefore, in view of the amendment to

Claim 25 and the remarks above, Applicants believe that the rejection of Amended Claim 25 under 35 U.S.C. 102(e) has been overcome.

Claim 26 has been amended to remove the word "substantially" from line 2. Claim 30 has been amended to add missing introductory words. Because Amended Claims 26, Claims 27-29 and Amended Claim 30 depend from Amended Claim 25, and because dependent claims recite all of the limitations of the independent claim, it is believed that Amended Claims 26, Claims 27-29 and Amended Claim 30 recite in allowable form. Therefore, Applicants also believe that the rejection of Amended Claims 26, Claims 27-29 and Amended Claim 30 has been overcome.

Applicants respectfully disagree with the Examiner's rejection of independent Claim 31. Eyal fails to disclose the steps of:
"*generating a second random number;*

using the second random number to select a song from the selected list of songs",
as recited in lines 6-8 of Claim 31. Eyal fails to teach the selection of songs based upon random numbers. Therefore, in view of the remarks above, Applicants believe that the rejection of Claim 31 under 35 U.S.C. 102(e) has been overcome.

Claim 32 has been amended to remove the word "substantially" from line 2. Amended Claim 32 and Claims 33-34 depend from Claim 31, and because dependent claims recite all of the limitations of the independent claim, it is believed that Amended Claim 32 and Claims 33-34 recite in allowable form. Therefore, Applicants also believe that the rejection of Amended Claim 32 and Claims 33-34 has been overcome.

Applicants respectfully disagree with the Examiner's rejection of independent Claim 35. Eyal fails to disclose the steps of:
"*generating a second random number;*

using the second random number to select a song from the selected list of songs",
as recited in lines 6-8 of Claim 35. Eyal fails to teach the selection of songs based upon

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random numbers. Therefore, in view of the remarks above, Applicants believe that the rejection of Claim 35 under 35 U.S.C. 102(e) has been overcome.

Claims 36-37 depend from Claim 35, and because dependent claims recite all of the limitations of the independent claim, it is believed that Claims 36-37 recite in allowable form. Therefore, Applicants also believe that the rejection of Claims 36-37 has been overcome.

New independent Claim 38, and new dependent Claim 39, dependent upon Claim 38, have been added. These new claims find support in the specification on page 7, lines 25-29; page 9, lines 3-29; page 10, lines 27-30; page 11, lines 1-6 and 25-29; and page 12, lines 1-21. No new matter was added. Similar arguments to those already provided above, such as with respect to Claim 3, Claim 12, and Claim 25, similarly apply to new Claims 38-39. These arguments are omitted from this section for brevity. However, Applicants respectfully submit that new Claims 38-39 also recite in allowable form and should be allowed by the Examiner.

In summary, in view of the amendments and remarks above, Applicants submit that the rejection of Claims 1-37 under 35 U.S.C. §102(e), as being anticipated by Eyal, has been overcome, and the Examiner should withdraw the rejection and allow these claims to issue. Further, in view of the arguments above, new Claims 38-39 recite in allowable form, and the Examiner should allow Claims 38-39.

Conclusion

The foregoing is submitted as a full and complete response to the Official Action mailed February 2, 2005, and it is suggested that Claims 3-14, 16-22, 25-37 and 38-39 are in condition for allowance. Reconsideration of the rejection is requested. Allowance of Claims 3-14, 16-22, 25-37 and 38-39 is earnestly solicited.

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No amendment made was related to the statutory requirements of patentability unless expressly stated herein. No amendment made was for the purpose of narrowing the scope of any claim, unless Applicants have argued herein that such amendment was made to distinguish over a particular reference or combination of references.

Applicants acknowledge the continuing duty of candor and good faith to disclose information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment are limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by the Applicants and their attorneys.

The present application, after entry of this amendment, comprises thirty-four (34) claims, including eight (8) independent claims. Applicants have previously paid for thirty-seven (37) claims including eight (8) independent claims. Applicants, therefore, believe that an additional fee for claims amendment is currently not due.

If the Examiner believes that there are any informalities that can be corrected by Examiner's amendment, or that in any way it would help expedite the prosecution of the patent application, a telephone call to the undersigned at (561) 989-9811 is respectfully solicited.

The Commissioner is hereby authorized to charge any fees that may be required or credit any overpayment to Deposit Account 50-1556.

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In view of the preceding discussion, it is submitted that the claims are in condition

for allowance. Reconsideration and re-examination is requested.

Respectfully submitted,

Date: __5/2/05__   By: _____

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